S.B. CR.MISC.2nd BAIL APPL.NO.5938/2007.

Mukesh
Vs.
State of Rajasthan

Date of order : 5/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Hari Kishan Saini for the petitioner.
Shri Shyam Arya, P.P. for the State.
Shri Gajendra Bhawan for the complainant.

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Heard learned counsel for the petitioner, learned Public Prosecutor for the State as well as learned counsel for the complainant and perused the relevant documents placed before me.

Learned counsel for the petitioner has argued that the bail application of the petitioner was rejected earlier by this Court vide order dated 25/6/2007 in SB Cr.Misc.Bail Application No.4170/07 while extending the benefit of bail to co-accused Ramkishore by the self-same order considering the argument of the Public Prosecutor that at this stage, the petitioner was not entitled to be enlarged on bail. The distinction that was pointed out was that the injury suffered on head of the injured Shyamlal has been attributed to him. It is contended that Shyamlal has sustained three injuries

on head which had been attributed to two accused i.e. Mukesh, petitioner herein and co-accused Nagarmal. The opinion of the medical officer also did not certify any of these injuries to be sufficient in the ordinary course of nature to cause his death. All that has been stated that the injuries may be dangerous to life. The learned Sessions Judge rejected the bail application on consideration of the fact that injured Shyamlal was operated upon whereas the fact was that he was merely hospitalized and was discharged after two days. The petitioner was arrested on 20/5/2007 and since then, he is in jail. The trial in the matter is likely to take long and so far only charges have been framed. No other criminal case was ever registered against him.

Learned Public Prosecutor as well as learned counsel for the complainant have both opposed the bail application and argued that in view of seriousness of the allegations, petitioner does not deserve extension of benefit of bail.

Without expressing any opinion on the merits of the case but taking into consideration the

aforesaid facts and circumstances of the case, I deem it appropriate to now enlarge the petitioner on bail.

In the result, this second bail application u/S.439 Cr.P.C. is allowed and it is directed that petitioner Mukesh S/o Sheopal shall be released on bail in F.I.R. No.187/2007 P.S. Neem Ka Thana, District Sikar for offences under Sections 307, 148, 341, 323, 447 and 504 IPC subject to his furnishing a personal bond in the sum of Rs.30,000/- together with two sureties in the sum of Rs.15,000/- each to the satisfaction of the trial Court for his appearance before that court on all dates of hearing until conclusion of the trial.

(MOHAMMAD RAFIQ), J.

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